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The undersigned United States District Judge has made an independent examination of the record in this case and has considered the objections made by petitioner to the Report and

Recommendation. The objections filed by petitioner are without merit and are hereby OVERRULED. The Magistrate Judge's Report and Recommendation is hereby ADOPTED. Defendant's motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) is GRANTED, and the § 1983 complaint is DISMISSED.

IT IS SO ORDERED.

ENTERED this 20th day of January 2010.


MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE